

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS NUMBER: 02-0460  
SALES/USE TAX  
For Year 1998**

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**ISSUES**

**I. Sales & Use Tax – Manufacturing Equipment**

**Authority:** IC 6-2.5-5-3(b); *General Motors Corp. v. Indiana Department of Revenue*, 578 N.E.2d 399 (Ind. Tax Ct. 1991).

Taxpayer claims that cranes purchased for the erection of houses are manufacturing equipment that are eligible for exemption from imposition of sales and use tax.

**II. Tax Administration – Credit for Prior Tax Paid**

Taxpayer requests credit for a Michigan sale for which Indiana use tax has already been paid.

**STATEMENT OF FACTS**

Taxpayer is engaged in the manufacture and the construction of prefabricated houses. It builds houses it has manufactured along with houses that have been manufactured by other house manufacturers. It constructs panelized walls, cornices, soffets, and trusses for the roof and rafters. It sells doors and windows for which it collects sales taxes, as it does when it works for other house builders.

In 1998, taxpayer purchased two trucks on which cranes were mounted. The cranes are used to hoist the trusses, cornices, soffets, and wall panels so that they can be assembled on the building site in the construction of a house.

**DISCUSSION**

**I. Sales & Use Tax – Manufacturing Equipment**

Taxpayer believes that, because the cranes are used in the production of homes, the purchase of the cranes was exempt from the imposition of sales and use tax under IC 6-2.5-5-3(b), which reads:

Transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining or finishing of other tangible personal property.

Because the cranes are not utilized in the manufacturing of the components of the houses, but are used in the construction of the houses themselves, the issue then becomes whether or not a house is tangible personal property. Clearly it is not.

Houses are real property. Because taxpayer builds buildings situated on land located in Indiana, it uses its cranes to make improvements to realty. Therefore, taxpayer is not eligible for the manufacturing exemption to the sales and use tax imposed on the purchase of the cranes.

Taxpayer argues that its situation is governed by the case of *General Motors Corp. v. Indiana Department of Revenue*, 578 N.E.2d 399 (Ind. Tax Ct. 1991). In *General Motors*, the taxpayer was successful in claiming the exemption for packing material that was used to ship automobile parts from its manufacturing facility to its assembly plant, where the finished product (an automobile) was assembled. The taxpayer asserts that it is engaged in an integrated production process that ends when a finished marketable product is produced. By undertaking the manufacture of the components of the house that are incorporated into the finished product, an argument could be made that the entire process, including the operation of the cranes to put the components into place, is an integrated production process within the mandate of *General Motors*.

Taxpayer in *General Motors* was involved in the manufacture of automobiles, which are tangible personal property. Once again, because taxpayer is making improvements to realty that fall outside of the scope of the manufacturing exemption of IC 6-2.5-5-3(b), taxpayer is not entitled to relief.

### **FINDINGS**

The taxpayer is respectfully denied.

## **II. Tax Administration – Credit for Prior Tax Paid**

Taxpayer claims that its only notice of this credit was in a report from the auditor. Taxpayer has submitted corroborating documentation to the Department. However, the auditor's list of adjustments shows that credit for the sale to Michigan has already been given

### **FINDINGS**

The taxpayer is respectfully denied.